

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1164 of 1999

with

Civil Application No. 9598 of 1999

in

SPECIAL CIVIL APPLICATION No 5605 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and  
MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?

4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

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RAMESHBHAI KANTILAL PATEL

Versus

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AGRICULTURAL PRODUCE MARKET COMMITTEE

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Appearance:

MR BN PATEL for Appellant

MR PK JANI for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

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CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE A.M.KAPADIA

Date of decision: 07/09/1999

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ORAL JUDGEMENT (Per B.C. Patel, J.):

1. Appellant/original petitioner preferred Special

Civil Application No. 5605 of 1999 in this Court being aggrieved by an order dated 8.7.1999, Annexure 'K', passed by Deputy Secretary, Agriculture and Cooperation Department. From the order it appears that a contention was raised before the Deputy Secretary that the revision is maintainable. However, the Deputy Secretary held that against the order passed by the Agricultural Produce Market Committee an appeal is maintainable before the appropriate authority. In view of this conclusion, the Revision Application was rejected. Against the aforesaid order, Special Civil Application was preferred and the learned Single Judge by an order dated 30.7.1999 rejected the petition and held that alternative and efficacious remedy of preferring an appeal being available the petition cannot be entertained.

Our attention is drawn to the provisions contained in Gujarat Agricultural Product Markets Act, 1963. Under the said Act there is no provision for appeal. However, Section 48 confers the powers on the State Government to call for the proceedings of Market Committee and to pass appropriate orders thereon. The said section reads as under:

"The State Government may at any time call for and examine the proceedings of the Director or of any market committee for the purpose of satisfying itself as to the legality or propriety of any decision or order passed by the Director or the market committees. In any case in which it appears to the State Government that any decision or order or proceedings so called for should be modified, annulled or reversed, the State Government may pass such order thereon as it thinks fit."

It is submitted by the learned advocate for the appellant as well as learned advocate for respondent No.1 that in view of this provision, it is open for the petitioner to prefer a Revision Application but not an appeal.

In these circumstances, the appeal is required to be allowed and accordingly it is allowed. The orders passed by the Deputy Secretary as well as the learned Single Judge are quashed and set aside. The Revision Application shall be heard by the State Government as early as possible. No order as to costs.

In view of the above order, no order on the Civil Application.

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(karan)